

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

STATE FARM LIFE INSURANCE  
COMPANY,

Plaintiff,

v.

JASON CAI and THE ESTATE OF YING  
DENG, Deceased,

Defendants.

Case No.: 09-CV-00396-LHK

ORDER CONTINUING CASE  
MANAGEMENT CONFERENCE AND  
RECOMMENDING STIPULATION OF  
DISMISSAL

The complaint in the above-captioned matter was filed on January 28, 2009. ECF No. 1. The matter was reassigned to the undersigned judge on August 2, 2010. ECF No. 38. The parties have not had an initial case management conference, nor have the parties exchanged initial disclosures. Moreover, Defendant Cai has been in custody and unrepresented since the beginning of this case and is currently awaiting trial in his criminal matter. ECF No. 33. This lawsuit concerns the distribution of the proceeds of Mr. Cai's deceased wife's life insurance policy. Concurrent with the filing of the complaint, State Farm, the carrier of Mr. Cai's deceased wife's life insurance policy, deposited the insurance proceeds plus interest, in the amount of \$303,907.36, with the Clerk of the Court. Receipt # 54611004592, Dkt. Text, ECF No. 1.

On March 25, 2011, the Court issued an Order referring Defendant Cai to the Federal Pro Bono Project. ECF No. 60. Thus far, the Project has been unable to identify an attorney willing to take this case on a pro bono basis. However, the Project continues to search for such an attorney.

1 On January 19, 2012, Defendant Cai requested that the Court continue the case  
2 management conference set for January 25, 2012, to a later date. ECF No. 64. Considering that  
3 Defendant Cai's participation at the case management conference will be seriously hampered due  
4 to his custodial status and to his lack of legal representation, the Court GRANTS Defendant Cai's  
5 request, and continues the case management conference to February 29, 2012, at 2:00 p.m.

6 This matter has been open for nearly three years and discovery has not commenced. In  
7 light of the above-mentioned challenges to Defendant Cai's active participation in this matter, the  
8 Court asks the parties to consider stipulating to a dismissal without prejudice and to the tolling of  
9 the statute of limitations for any claims and counterclaims. *See, e.g., O'Keeffe's Inc. v. Technical*  
10 *Glass Prods.*, 5:07-CV-03535-LHK, ECF No. 154. If the parties file a stipulation of dismissal by  
11 12:00 p.m. on February 22, 2012, the Court will vacate the case management conference set for  
12 2:00 p.m. on February 29, 2012. Alternatively, the parties may consider moving the Court to stay  
13 this action and administratively close the file pending resolution of Defendant Cai's criminal trial  
14 and/or his appointment of counsel.

15  
16 **IT IS SO ORDERED.**

17  
18 Dated: January 19, 2012

19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
  
\_\_\_\_\_  
LUCY H. KOH  
United States District Judge